



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

The following meeting of the Planning & Zoning Commission was held remotely using Zoom Technology:

Planning and Zoning Commission Minutes

April 23, 2020

Meeting Started: 5:00 P.M.

In attendance: Danielle Dobin, Chip Stephens, Gregory Rutstein, Michael Cammeyer, Catherine Walsh, Paul Lebowitz, Jon Olfeson, Al Gratrix Jr (*for 44 Compo Mill Cove*), and Neil Cohn providing technical support utilizing the Zoom technology.

P&Z Staff: Mary Young, AICP, P&Z Director.
Michelle Perillie, AICP, CFM, Planner.

I PUBLIC MEETING

Public participation for Public Meeting items is limited to submitting comments in advance of the meeting (until 4:30pm on the day of the meeting). Comments should be sent to pandz@westportct.gov

- 1. 60 Compo Beach Road (aka Compo Beach), PID #D03164000 located in the Residence A District, and 260 Compo Road South (aka Longshore Club Park), PID #C04001000 located in the Residence AA and Residence AAA Districts:**
§8-24 Request by the Parks and Recreation Director on behalf for the First Selectman for a report on a lease between the Town of Westport and Upsilon Entertainment Group, LLC. for the Food and Beverage Concession for the Pavilion at Compo Beach, and for the Halfway House and Longshore Pavilion located at Longshore Club Park.
Action: Testimony received and meeting closed. Positive Report, Vote: 7-0-0, See attached resolution.
- 2. 90 Hillspoint Road, PID #E07007000, located in the Residence AA and Res A districts:** §8-24 Request by the Real Property Committee on behalf of the First Selectman for a report on the continued leasing of Hillspoint School to the Parent Child Center.
Action: Testimony received and meeting closed. Positive Report, Vote: 7-0-0, See attached resolution.

II PUBLIC HEARING

1. **26 Beachside Ave:** Coastal Site Plan Appl. #PZ-20-00156 submitted by Robert Marx of Roger Ferris & Partners for property owned by Fiona Garland for a new single-family residence for property located in the Residence AAA zone, PID#G05002000.
Action: Item was withdrawn on 4/14/20.
2. **50 Compo Mill Cove:** Coastal Site Plan Appl. #19-063 submitted by Tom Ryder, LandTech for property owned by Pasquel Malpeso Jr. to retain a stone planter box and associated wall located in the Residence A zone, PID#E04091000.
Action: Item was continued to 5/28/20 hearing, no testimony was taken on 4/23/20.
3. **201 Main Street:** Special Permit/Site Plan Appl. #19-067 submitted by Mel Barr, Barr Associates LLC for property owned by Belden Place LLC to modify prior approval granted per Resolution #17-033 to change approved floor area below the first floor and to modify approved landscaping located in the Restricted Business District, PID#C10091000.
Action: Testimony received and hearing closed. Granted, Vote: 7-0-0, See attached resolution.
4. **44 Compo Mill Cove:** Coastal Site Plan Appl. #19-065 submitted by Compo Cove LLC c/o Robin Tauck for property owned by Compo Cove LLC to construct a revetment and planted dune located in the Residence A zone.
Action: Testimony received and hearing closed. Approved, Vote: 7-0-0, See attached resolution.

III WORK SESSION

(The following items will be discussed and voted on as time permits. The public may observe the work session, but not participate.)

New Business:

- **25 Kings Highway South, Birchwood Country Club:** Submitted by Attorney John Fallon requesting Modification to Resolution #18-073 that approved a Warming Hut adjacent to Paddle Tennis Courts.
Granted, Vote: 6-0-1 (Walsh), See attached resolution.

No Old Business:

Meeting Concluded: 9:00P.M.



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Tel: 203-341-1030 Fax: 203-454-6145

Public Meeting: April 23, 2020
Decision: April 23, 2020

April 27, 2020

Honorable James Marpe, First Selectman
110 Myrtle Avenue
Westport, CT 06880

RE: §8-24 Request for a Report from the Planning and Zoning Commission on a Lease for the Food and Beverage Concession at 60 Compo Beach Road (Compo Beach), and 260 Compo Rd. South (Longshore Club Park).

Dear First Selectman Marpe:

In response to your request for a §8-24 report on the proposed lease between the Town of Westport and a new vendor, Upsilon Entertainment Group, LLC, for the Food and Beverage Concession for the Pavilion at Compo Beach at 60 Compo Beach Road, and for the Halfway House and Longshore Pavilion located at Longshore Club Park at 260 Compo Road South, the Planning and Zoning Commission offers the following finding and recommendations:

Findings

1. Concessions at Compo Beach and Longshore Club Park have long served residents and visitors and offer a convenience many have grown accustomed to.
2. A new vendor is needed to operate the Food and Beverage Concession for the Pavilion at Compo Beach at 60 Compo Beach Road, and for the Halfway House and Longshore Pavilion located at Longshore Club Park at 260 Compo Road South.
3. A new vendor was found following a competitive bidding process.
4. The 2017 Plan of Conservation and Development recognizes the value of the recreational facilities at Compo Beach and Longshore Club Park.
5. The Planning and Zoning Commission finds supporting the lease will facilitate the Concessions remaining operational thereby offering a convenience to residents and visitors alike at Compo Beach and Longshore Club Park.

THEREFORE BE IT RESOLVED it was moved by Mr. Lebowitz and seconded by Ms. Dobin to issue a **POSITIVE REPORT** for 60 Compo Beach Road (aka Compo Beach), PID #D03164000 located in the Residence A District, and 260 Compo Road South (aka Longshore Club Park), PID #C04001000 located in the Residence AA and Residence AAA Districts in response to the §8-24 Request by the Parks and Recreation Director on behalf for the First Selectman for a report on a lease between the Town of Westport and Upsilon Entertainment Group, LLC. for the Food and Beverage Concession for the Pavilion at Compo Beach, and for the Halfway House and Longshore Pavilion located at Longshore Club Park.

Reason

1. Continued provision of concessions at Compo Beach and Longshore Club Park is consistent with the 2017 Plan of Conservation and Development that recognizes the value of the recreational facilities and amenities they offer to residents.

Recommendations

1. **Revise Section 3. Initial Term and Extension Options**

Section 3 (b): The Tenant shall have the option to extend the Initial Term for two 5-year periods, beginning November 16, 2024 and November 16, 2029, respectively, subject to such conditions as are mutually agreed upon by the Town and the Tenant, and subject to the approval of the Planning & Zoning Commission.¹

2. **Revise Section 9. Covenants Regarding Operations.**

Section 9(o) shall be amended as indicated in RED: Tenant shall, at all times, offer a base menu of food and beverages at the Premises (the "Base Menu"). In recognition of the fact that the Premises are located in the beach area and in a municipal park, Tenant covenants and agrees that: (i) the price, portion size and quality of each item appearing on the Base Menu will be consistent generally with past practices at the Premises and consistent with a casual, beachside concession/snack bar² and (ii) the Base Menu shall be subject to the annual review and approval of the Town. Tenant will deliver to the Director of Parks and Recreation a copy of its proposed Base Menu for each upcoming Operating Season not more than four (4) months and not less than one (1) month before the start of the Operating Season. The Town will not unreasonably withhold or delay its approval of the Base Menu. During the course of an Operating Season, the Tenant will not increase the price of any item appearing on the Base Menu. Notwithstanding anything in this Paragraph to the contrary, the Tenant may, from time to time, serve *Specials* (i. e., items not appearing on the Base Menu) without obtaining the Town's approval, provided that no *Special* may be an inferior substitute, with respect to quantity or quality, for any item appearing on the Base Menu. *By way of example, if the Base Menu includes an eight inch hotdog for \$4.00, then the Tenant may not*

¹ The term "Town" is defined only as the "Town of Westport", which provides insufficient specificity with regard to the process for determining "mutually agreed upon" terms for renewal. Pursuant to State Statute 8-24, all leases require the approval of the PZC. If the "Town" as referenced here will also include the Board of Finance and the Board of Selectman, their review should also be specifically stated.

² This more clearly establishes pricing expectations for the "Base Menu" in furtherance of the planning objective of ensuring casual, accessibly priced snack food options.

offer, as a Special, a four inch hotdog for \$3.00. Tenant may provide to holders of a Parks and Recreation Department hand pass (for example, holders of basic, golf, tennis and caregiver hand passes) a discount off the prices charged for food and beverage items.

3. Add Two Subsection to Section 12. **Improvements, Fixtures, Equipment and Modifications.**

- A. New Section 12(i). Any and all improvements to the Premises shall conform to the Town's regulations. Tenant is responsible for seeking proper authorization from the Planning & Zoning, Conservation, Building or other departments, as applicable, before making any improvements to the Premises.³
- B. New Section 12(j). Notwithstanding anything to the contrary included herein, all signage must conform with existing P&Z Regulations, including any signs advertising catering services.⁴

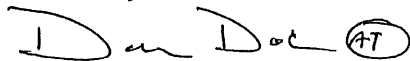
VOTE:

AYES -7- {Dobin, Stephens, Rutstein, Cammeyer, Lebowitz,
Walsh, Olefson}

NAYS -0-

ABSTENTIONS -0-

Sincerely,



Danielle Dobin, Chair
Planning and Zoning Commission

cc: Parks and Recreation Director
Finance Director
BOF Chairman
RTM Moderator
Chairman, RTM P&Z Committee
Town Attorney

³ This new subsection clarifies that the Tenant does not enjoy any special authority to make physical changes to the Premises without proper authorization from the appropriate town bodies and agencies.

⁴ The Lease makes various references to signage. This ensures all signage is consistent with our regulations.



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Public Meeting: April 23, 2020
Decision: April 23, 2020

April 27, 2020

Honorable James Marpe, First Selectman
110 Myrtle Avenue
Westport, CT 06880

RE: §8-24 Request for a Report from the Planning and Zoning Commission on continued leasing of Town-owned property to the Parent Child Center at 90 Hillspoint Road, PID #E07007000 in the Res A and Res AA Districts.

Dear First Selectman Marpe:

In response to your request for a §8-24 Report on the continued leasing of Town-owned property at 90 Hillspoint Road, known as the Hillspoint School, between the Town of Westport and the Parent Child Center, the Planning and Zoning Commission offers the following findings and recommendations:

Findings

1. The lease of 90 Hillspoint Road to the Parent Child Center will be expiring in Aug. 2020. The Real Property Committee requested a Report from the Planning and Zoning Commission pursuant to CGS §8-24, Municipal Improvement, to continue the lease for another 10 years.
2. The Board of Finance recommended approval for the proposed lease at their 3/4/20 meeting.
3. Correspondence from members of the public was received in support of the proposal.
4. A Public Meeting was held on April 23, 2020 wherein the Chairman of the Real Property Committee provided a project overview and answered questions raised by members of the Planning and Zoning Commission.

THEREFORE BE IT RESOLVED it was moved by Mr. Stephens and seconded by Ms. Dobin to issue a **POSITIVE REPORT** for 90 Hillspoint Road, PID #E07007000, located in the Residence AA and Res A Districts: §8-24 Request by the Real Property Committee on behalf of the First Selectman for a report on the continued leasing of Hillspoint School to the Parent Child Center.

Reasons

1. A public need is supplied by the Parent Child Center. Three (3) pre-schools operate at the Parent Child Center including A Child's Place, Learning Community Day School, and Children's Community Development Center. The Parent Child Center serves over 260 children 84% of whose families live or work in Westport.
2. The 2017 Plan of Conservation and Development recognizes the value of retaining Town ownership of 90 Hillspoint Road as it provides playing fields used by programs operated by the Parks and Recreation Department that will continue alongside the proposed lease and the lease simultaneously allows continued use of the building by The Parent Child Center who provide needed childcare services to many Westport residents and beyond.

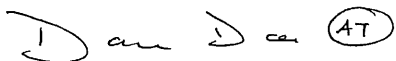
Recommendations

1. The Board of Selectman should review the proposed lease following issuance of this Positive Report from the Planning and Zoning Commission.
2. At the conclusion of the 10-year lease term, the Real Property Committee is respectfully invited to return to obtain a new §8-24 Report from the Planning and Zoning Commission before the 5-year renewal option is exercised.

VOTE:

AYES	-7-	{Dobin, Stephens, Rutstein, Cammeyer, Lebowitz, Walsh, Olefson}
NAYS	-0-	
ABSTENTIONS	-0-	

Sincerely,

 (47)

Danielle Dobin, Chair
Planning and Zoning Commission

cc: Chair, Real Property Committee
Finance Director
BOF Chairman
RTM Moderator
Chairman, RTM P&Z Committee
Town Attorney



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Hearing: April 23, 2020
Decision: April 23, 2020

Melvin H. Barr
Barr Associates, LLC
25 Sylvan Road South, Suite P
Westport, CT 06880

RE: 201 Main Street, Special Permit/Coastal Site Plan Appl. #19-067

Dear Mr. Barr:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on 4/23/2020, it was moved by Mr. Chip Stephens and seconded by Ms. Danielle Dobin to adopt the following resolution:

RESOLUTION #19-067

WHEREAS, THE PLANNING AND ZONING COMMISSION met on April 23, 2020 and made the following findings.

Background

1. The subject site has frontage on Main Street, is adjacent to the Saugatuck River and is located in a Restricted Business District (RBD).
2. The lot is .535 Acres in size and is a result of the merging of 201 Main St (0.161 A), 7 Belden Place (0.166 A), 15 Belden Place (0.077 A), and the incorporation of the Belden Place private right of way (0.131 A) into the total lot area. The lot is now known as 201 Main Street.
3. The subject properties lie within the Coastal Area Management (CAM) boundary as defined by C.G.S. §22a-94, and therefore CAM review is required in accordance with C.G.S., §22a-109 and the Town of Westport Zoning Regulations, §31-10.
4. The following coastal resources have been identified as either on site or within influence of the project: Coastal Hazard Areas, Coastal Waters, Developed Shorefront, Tidal Wetlands and Shorelands.

5. On September 14, 2017, the Planning and Zoning Commission (Res. #17-033) approved the construction of an addition of the historic building constructed circa 1850 located adjacent to Main Street (Building "A") and the lifting and renovation of the red house at the rear of the property (Building "C").
6. The approved renovations (Res. #17-033) allowed for the construction of six (6) 1-bedroom and six (6) 2-bedroom apartments for a total of twelve (12) apartments in Building "A" and two (2) 1-bedroom apartments in Building C, the "little red house", for a total of fourteen (14) apartments on the site.
7. As facilitated by Variance #7540 that was granted in 2017, the residential density on site is 37 bedrooms/acre and 26 units/acre, and the existing retail use was permitted to be retained and was reduced to 874 SF of floor area.
8. Pursuant to §32-12 twenty percent (20%) of the proposed residential units will be deed restricted to be affordable to families making 80% of the State Median Income for a period of 40 years. Three (3) of the 14 total residential units will be deed restricted as affordable dwellings.
9. On January 15, 2019, ZBA #7689 was granted by the Westport Zoning Board of Appeals to permit retroactive approval of new construction of Building A, as it had been demolished, in its original location in the setbacks and to maintain the previously approved variances granted pursuant to ZBA #7540.
10. On January 17, 2019 during a work session discussion, the Planning and Zoning Commission revised their previous resolution (#17-033) and approved modifications to the proposal to allow the retroactive approval for new construction of Building A.
11. On October 29, 2019, an application to the ZBA (#7466) was heard for additional floor area that was constructed below the first floor and for an entry lobby and to legalize the heat pumps instead of air-conditioning condensers that were installed within the setbacks. This application was **Denied in Part & Granted in Part**. The Board **denied** the retroactive variances for Total Floor Area and Floor Area Ratio to construct a lobby entry addition and for the conversion of the previously approved floor area below the first floor from a Crawl Space to an area that has full head room for mechanicals and storage. The 16 stacked heat pumps along the southern property line were **approved with conditions** where a single row of air-conditioning units had been previously approved. The ZBA noted that air-conditioning units run a few months a year and heat pumps run year-round. The Zoning Board of Appeals approved the application for setbacks to install 16 heat pumps with the following conditions:

- a. The applicant shall install a sound-attenuating fence between installed between the heating and cooling units and the property line and shall extend beyond the building openings.
 - b. The applicant shall submit to staff the specifications (cut sheets) for the attenuating fencing and the heating and cooling units prior to the issuance of a zoning permit.
 - c. The applicant shall install a landscape screen between the attenuating fence and the property line, which shall consist of a row of 6-8-foot-high evergreen plants which transverse the length of these units.
12. This Zoning Board of Appeals approval (#7466) did not resolve the issue that the applicant had already constructed floor area below the first floor with full head room, nor had they followed the approved plans when installing and locating the utilities in the area below the first floor such as electric, water lines, fire suppression and alarm systems and cable.
13. The applicant submitted a new variance request (⁷⁷⁶²~~#7622~~) to the Zoning Board of Appeal for variances for Setback (fence), Total Floor Area and Floor Area Ratio. On January 7, 2020, the application was approved to construct a 10' high sound attenuation fence in the setbacks and to modify the existing unapproved floor area below the first floor into corridors, with the remaining area being converted back to Crawl Space. The purpose of the full headroom corridors was to provide safe access to the utilities. This was approved with the following conditions:
 - a. Modify floor area below first floor to provide a corridor with to access utility services with headroom that is greater than 5-feet in height which will contribute to total floor area and FAR for the structure; this will increase the total floor area of the structure by 270 SF.
 - b. Install a 10-foot high sound attenuating fence along the southern property line to be located between the heat pumps and the property line.
 - c. Install 6 to 8-foot high arborvitae between the fence and the southern property line.
 - d. Install a border constructed of cobbles to address the minor grade difference at the southern property line.
14. The applicant submitted a request for modification of their previous approval (#17-033) which was discussed during a work session of the Planning and Zoning Commission and it was decided that a new application was required.

Proposal

15. The applicant now appears before the Commission to modify Coastal Site Plan #17-033 to request the following:
 - a. Install a 10-foot high sound attenuating fence to dampen the sound generated by the 16 heat pumps and plant a hedge of 6 to 8-foot arborvitae between the fence and the southern property line.
 - b. Modify the approved crawl space to provide a full height accessway to the utilities resulting in an increase to the floor area of 270 SF for which a variance was received.

Department Comments

16. The Conservation Department's comments dated 2/3/2020 condition that this modification result in no stockpiling of materials and that all material shall be direct loaded and taken off site.
17. The Engineering Division of the Department of Public Works found in their comments dated 3/4/2020 that no issues were found with this modification.
18. The Fire Department offered comments dated 2/6/2020 noting that the corridors below the first-floor level will provide the required accessibility to the building's sprinkler control valves and the alarm and is therefore approved by this office. It was also noted that a combustible fence in this location would not be permitted.

NOW THEREFORE, BE IT RESOLVED that 201 Main Street: Appl.#19-067 for Coastal Site Plan and Special Permit approval submitted by Mel Barr, Barr Associates LLC for property owned by Belden Place LLC located in the Restricted Business District, PID#C10091000, to modify prior approval (#17-033) to change approved floor area below the first floor, add exterior heat pumps and modify approved landscaping, subject to the modifications listed below:

1. Conformance to Site Development Plans entitled "Proposed Multi-use Development, 201 Main Street, Westport, CT, prepared by B&B Engineering, dated 1/3/17, last revised 1/7/2020.
2. Conformance to the "Cellar Plan" of 201 Main Street prepared by Robert Storm Architects, dated 12/17/2019.
3. All conditions and findings of the original approval (#17-033) and the modification of this approval that occurred on 1/17/2019 shall remain fully intact and continue to be applicable to this site.
4. Conformance to ZBA resolutions #7540, #7746, and #7762.

5. The applicant to work out the details of the fencing material with the Building and Fire Departments and shall choose a fence that provides the same or better sound attenuation as the one presented to the Zoning Board of Appeals. The applicant shall provide Planning and Zoning Staff with sound attenuating data and cut sheet for the final fence product prior to the issuance of a Final Certificate of Occupancy.
6. A Zoning Permit shall be obtained prior to commencement of any work. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
 - a. All site plans shall be stamped and sealed by an Engineer registered in the State of Connecticut.
 - b. A copy of this resolution #19-067 and modified resolution #17-033 shall be submitted with the new zoning permit request.
7. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer.
8. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.
9. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by April 23, 2025.
10. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

ENFORCEMENT Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

1. The Commission finds that the proposed activities conform to the Connecticut Coastal Management Act indicating that the plan substantially complies with the policies of C.G.S §22a-109 and *Westport Zoning Regulations*, §31-10.
2. The Commission finds that the proposed addition of a full height corridor instead of a crawl space will provide a safe means of access to the fire department and others who need to access the utilities that service this building.
3. The proposed project has been found to be in conformance with:
 - A. The variances granted by the Zoning Board of Appeals pursuant to Cases #7540, #7746, and #7762;
 - B. The 2017 Plan of Conservation and Development; and
 - C. The Site Plan and Special Permit standards listed in §44-5 and §44-6; and

VOTE:

AYES	-7-	Dobin, Stephens, Rutstein, Cammeyer, Lebowitz, Olefson, Walsh
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Danielle Dobin

Chairman, Planning & Zoning Commission

cc: Nate Gibbons, Fire Marshal
Stephen Smith, Building Official
Edward Gil, DPW- Engineering
Alicia Mozian, Conservation Director



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145

Hearing: January 23, 2020 and April 23, 2020
Decision: April 23, 2020

April 29, 2020

Compo Cove, LLC
c/o Robin Tauck
223 Hillspoint Road
Westport, CT 06880

RE: 44 Compo Mill Cove, Coastal Site Plan, Appl. #19-065

Dear Ms. Tauck:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on April 23, 2020 it was moved by Ms. Dobin and seconded by Mr. Cammeyer to adopt the following resolution.

RESOLUTION #19-065

WHEREAS, THE PLANNING AND ZONING COMMISSION met on April 23, 2020 and made the following findings:

Property Description/Background

1. The lot is a conforming 25,440 SF lot located within the ½ acres Res. A district. The lot currently has a single-family dwelling. The house constructed in about 1901, is listed on the Historic Resource Inventory (HRI) and is within the Mill Cove Historic District, which was listed on the National Register of Historic Place in 1991 and does not conform to the Base Flood Elevation.
2. The survey shows that the property ranges between 9.2' NAVD along the eastern property line then gradually slopes down to approximately 7' and then quickly down to 3.3' NAVD (Mean High Water Line) along Long Island Sound.
3. 44 Compo Mill Cove is located within the Coastal Area Management (CAM) boundary and is located within the 100-year flood zone, which is designated as AE EL 13' and VE EL 14' on Panel #09001C0552G. A majority of the property and house are located in the VE EL 14' flood zone. The property is connected to sanitary sewer. There is a permanent maintenance easement on the property, and all those properties on

Compo Mill Cove, which was granted to the Town of Westport in 1983 to redistribute sand that gathers on the western end of the Cove back along the beach.

4. Recent beach erosion has uncovered a buried concrete wall, confirmed to be pre-1995 by the Connecticut DEEP, which is located approximately 40 feet from the Mean High Water Line. The top of the shoreline flood and erosion control structure (seawall) has an EL of 8' NAVD 88.

5. In September 2019, an Coastal Site Plan application (#19-048) was submitted which proposed to extend the height by 3 feet of an existing 24" wide shoreline flood and erosion control structure (seawall) and to add resiliency to the existing beach by placing a coir block along the bottom of the bank and overlaying the slope with beach nourishment sediment as a planted dune which will extend from the shoreline flood and erosion control structure (seawall) to the Coastal Jurisdiction Line (CJL). Comments were received from Connecticut Department of Energy and Environmental Protection (CT DEEP) which indicated the proposal was **not** consistent with Connecticut Coastal Management Act and the applicant withdrew the application.

6. This property lies within the Coastal Area Management (CAM) boundary, as defined by C.G.S. §22a-94 and therefore, a Coastal Site Plan review is required in accordance with C.G.S. §22a-109 and the Town of Westport Zoning Regulations §31-10.6. §31-10.5 of the zoning regulations states that no use, activity or project for which a Coastal Site Plan is required by §22a-105 (b) of the Connecticut Coastal Management Act (CCMA) shall commence until a Coastal Site Plan has been approved by the P&Z Commission or the Zoning Board of Appeals in accordance with the requirements of §22a-105 through 22a-109 of the CAM Act.

7. The following coastal resources have been identified on the site or within the influence of the project: General Resources, Beaches and Dunes and Shellfish Concentration Area.

Proposal

8. The original plans submitted as part of this application continued to propose extending the height by 3 feet and beach nourishment with a planted dune.

9. Staff sent a referral to DEEP in accordance CGS 22a019 (d) as the proposal included modification to a shoreline flood and erosion control structure.

10. Comments from CT DEEP Office of Long Island Sound Program John Gaucher, dated 2/10/20 suggested a rock filled dune design may be considered consistent with CCMA policies. He states benefits of the rock core dune over the existing proposal includes,

"1) beneficial rather than adverse impacts to the beach resource;

2) minimization or elimination of any adverse impacts to the abutting property;

3) enhancement of beach habitat if implemented at a sustainable elevation;

- 4) *reduction in frequency and significance of repair/maintenance;*
 - 5) *elimination of wave energy potentially deflected into the living area of the dwelling by a vertical seawall;*
 - 6) *elimination of the need to install special geotextile fabrics, coir logs, pinning, or other design features required to secure non-structural features located waterward of the existing seawall closer to the high water mark;*
 - 7) *repair/replacement of sacrificial sand would be less costly and less complicated than fixing geotextile fabric, stakes, coir logs, etc.;*
 - 8) *creating an appearance of a 100% natural beach, fitting in with the existing beach environment; and*
 - 9) *being consistent with all applicable CCMA policies."*
11. Connecticut General Statutes Sec. 22a-92(b)(2)(J) identify the policies concerning coastal land and water resources within the coastal boundary:
- "To maintain the natural relationship between eroding and depositional coastal landforms and to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures. Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, cemetery or burial grounds, water-dependent uses, or commercial and residential structures and substantial appurtenances that are attached or integral thereto, constructed as of January 1, 1995, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts."*
12. The applicant submitted revised plans dated 2/14/20 which proposed removal of the existing seawall and replacement of a sand dune with rock core. The dune will be planted with native beach grass. Sand will be imported and delivered to the site via barge or carted onto the site with small equipment.
13. The proposal also includes constructing a concrete patio and walkway.
14. Text Amendment #775 was adopted by the Planning and Zoning Commission on March 5, 2020 and permits slopes greater than 20%, but no more than 35%, for sand dunes created as part of beach nourishment or replenishment projects if recommended by CT DEEP. The amendment became effective March 30, 2020. The proposed sand dune with rock core has a 33% slope and this slope is recommended by John Gaucher, from CT DEEP, in order for the sand dune to function effectively. Therefore, the application may be considered compliant with the grading requirements allowed pursuant §32-8.
15. Comments were received by John Gaucher of CT DEEP on 3/10/20 which recommend a number of modifications to the plans including creating a dune that will

cover all the rock and strongly recommending that the owner consider shifting the rock core dune as far landward as feasible and noting if a design with a smaller footprint can be shown to effectively protect the structures foundation, a landward shift of the center of the structure could be relocated further landward without the landward edge location changing.

16. Mr. Gaucher also recommended elimination of the proposed gallery system as although very effective in upland situations, subsurface infiltration is not suitable in a beach environment. Drainage through beach sand far exceeds the maximum infiltration rate of 5"/hr as recommended in the 2004 Connecticut Stormwater Quality Manual. Since beaches have such high infiltration rates, the best stormwater treatment arises from discharging stormwater to the ground surface. The proposed patio will not create a new point discharge, so beach erosion is highly unlikely to occur as a result of the structure.

17. Further modifications to the plans were recommended by John Gaucher, CT DEEP and revised plans submitted. Plans dated 4/6/20 were reviewed and a determination that the plans as modified, appear to be fully consistent with the relevant Coastal Management Act policies including CGS Sec. 22a-92(b)(2)(J) was submitted by Mr. Gaucher on 4/22/20. He recommended the following conditions of approval:

A. Submission of a Monitoring Plan

Conduct a minimum of a 3-year monitoring program which shall include the submission of an annual monitoring report on or before October 30th of each growing season for the P&Z staff review and comment. The initiation of the 3-year monitoring program shall start the first growing season following the planting of the beach grass vegetation. Such annual report shall contain, at a minimum, the following information: 1.) visual estimates of percent cover of surviving vegetation; 2.) general health and vigor of the surviving plants; 3.) replanting of areas that are determined to have less than a 50% plant survival rate; and 4) site photographs. Additionally, sand shall be added as necessary to ensure that the rock core remains covered with beach sand. The owner shall immediately implement any additional remedial recommendations that may be prescribed by the Staff in writing in response to the evaluation of any annual report.

B. Installation of Dune Wind Fencing

This will minimize the loss of wind-blown sand until robust beach

18. The Commission determined that Dune Wind Fencing was not necessary after testimony was received from the applicant that the fencing does not withstand the recent storms.

19. Comments from the Engineering Department dated 2/27/20 indicating the application is complete and does not require further revision. Additional comments dated 4/15/20 were received indicating satisfaction with the removal of the gallery system and the certification that the deck, patio and fire pit will be constructed to comply with FEMA Technical Bulletin #5.

20. The Staff Reports prepared by Michelle Perillie, dated March 2, 2020, April 16, 2020, April 20, 2020 and April 22, 2020 conclude the application is consistent with the goals and policies of the Connecticut Coastal Management Act.

21. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Connecticut Coastal Management Act; that it will adversely affect adjacent Coastal Resources (General Resources, Beaches and Dunes and Shellfish Concentration Area) identified in Sections 22-93 (a) (7) of said Act.

22. Testimony was received at the March 5, 2020 and April 23, 2020 public hearings.

THEREFORE BE IT RESOLVED that **44 Compo Mill Cove**: Coastal Site Plan Appl. #19-065 submitted by Compo Cove LLC c/o Robin Tauck for property owned by Compo Cove LLC to construct a revetment and planted dune located in the Residence A zone, PID#E04094000 be **APPROVED** with the following modifications and for the following reasons:

Conditions

1. Conformance to the Existing Conditions Survey, prepared by William W. Seymour and Associates, dated 10/11/16, revised 7/27/17.
2. Conformance to the Shoreline Protection Plans, prepared by RACE, dated 8/16/19, revised 4/6/20.
3. A Zoning Permit shall be obtained prior to commencement of any work. Prior to the issuance of a Zoning Permit, the applicant shall submit the following :
 - a. Submission of a Monitoring Plan: Conduct a minimum of a 3-year monitoring program which shall include the submission of an annual monitoring report on or before October 30th of each growing season for the P&Z staff review and comment. The initiation of the 3-year monitoring program shall start the first growing season following the planting of the beach grass vegetation. Such annual report shall contain, at a minimum, the following information:
 - 1.) visual estimates of percent cover of surviving vegetation;
 - 2.) general health and vigor of the surviving plants;
 - 3.) replanting of areas that are determined to have less than a 50% plant survival rate; and
 - 4) site photographs.Additionally, sand shall be added as necessary to ensure that the rock core remains covered with beach sand. The owner shall immediately implement any additional remedial recommendations that may be prescribed by the Staff in writing in response to the evaluation of any annual report.

4. Prior to the issuance of the Zoning Certificate of Compliance the applicant shall submit a Certified "As-Built" survey.
8. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.
9. All new utilities shall be placed underground.
10. All plantings shown on the final approved planting plan shall be maintained in a healthy growing condition and shall be replaced with new materials no later than the beginning of the next immediately following growing season if they do not thrive.
11. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by April 23, 2025.
12. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

ENFORCEMENT. Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

1. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Connecticut Coastal Management Act; that it will not adversely affect adjacent Coastal Resources (General Resources, Beaches and Dunes and Shellfish Concentration Area) identified in Sections 22-93 (a) (7) of said Act.
2. The 2017 Plan of Conservation and Development in Chapter 7 (Protect Natural Resources) includes a goal of promoting non-structural activities in the coastal area as opposed to groins, seawall revetments, etc. (pg 52).
3. The 2017 Plan of Conservation and Development in Chapter 7 (Protect Natural Resources) includes a goal of preserving coastal resources and carefully manage development in coastal areas (pg 45).

4. The Engineering Department comments dated April 15, 2020 stating they had no objection to the proposal.

VOTE:

AYES	-7-	{Dobin, Stephens, Walsh, Lebowitz, Cammeyer, Rutstein, Gratrix}
NAYS	-0	
ABSTENTIONS	-0-	

Very truly yours,

A handwritten signature in black ink, appearing to read "Danielle Dobin", followed by a small superscript "sr".

Danielle Dobin

Chair, Planning & Zoning Commission

cc: P. Fria, Assessor's Office
P. Ratkiewich, Engineering Department

Hearing: December 20, 2018
Decision: December 20, 2018
Modified: April 23, 2020
See Changes bolded and underlined

January 3, 2019

John Fallon
Birchwood Country Club
25 Kings Highway South
Westport, CT 06880

RE: 25 Kings Highway South (Birchwood), Site Plan/Special Permit Appl. 18-073

Dear Mr. Fallon:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on December 20, 2018 it was moved by Ms. Dobin and seconded by Mr. Stephens to adopt the following resolution.

RESOLUTION #18-073

WHEREAS, THE PLANNING AND ZONING COMMISSION met on **December 20, 2018** and made the following findings:

Background

1. The Birchwood County Club, located at 25 Kings Highway South, is an 81.4-acre property located between Riverside Avenue and Kings Highway South. The Club includes a nine-hole golf course and driving range, Tennis Courts, Paddle Tennis Courts, Swimming Pool and Restaurant. The Commission granted approval of construction of two paddle tennis courts per Res. #16-034.

Proposal

2. The applicant is John Fallon, Esq. The owner is Birchwood County Club.
3. The request is for Birchwood Country Club to construct a 1-story 300 SF warming hut for members who are using the newly constructed paddle tennis courts located in the southwest corner of the site. The proposed warming hut will be about 300 feet from the closest property line (west). The warming huts will be used during the hours that the paddle tennis courts are in use, closing at 10:00 p.m. according to the applicants' Statement, received 10/18/18 (attached).
4. The proposal includes constructing seven (7) parking spaces, including 1 handicap space, located to the west of the warming hut. The project proposed ADA access for the courts by construction a ramp from the parking lot to the courts and a ramp to the warming hut. A rain garden is also proposed to accommodate the runoff of the new parking spaces.
5. There are no parking standards for a Golf and Country Club use listed in §34-5. §34-5 authorizes the Planning and Zoning Commission to use an "Other" parking standard for

circumstances involving a unique use not otherwise listed in the parking requirements table in §34-5.

6. The applicant has proposed seven (7) new parking spaces with one (1) handicap space. There is no specific parking standard for a “warming hut”. These new spaces are for convenience of the members currently using the club. It appears reasonable that the warming hut will not attract new members and it will be used by existing club members.
7. The requirements of the submission of a Site Plan and Existing Conditions Survey have been waived for this submission as per §44-4 of the regulations. The applicant submitted a Parking Plan which shows the parking around the warming hut and paddle tennis courts, which are the subject of this application.
8. Conservation Department comments dated 11/13/18 indicate they have determined the project is eligible for a staff-level permit.
9. Engineering comments dated 12/11/18 indicated they had concerns with the project’s compliance with drainage, grading and sediment and erosion controls. The applicant revised the plans to address these concerns and subsequent comments from the Engineering Department dated 12/18/18 indicate the office had no issues with the project.
10. Testimony was received at 12/20/18 public hearing.

NOW THEREFORE, BE IT RESOLVED that **25 Kings Highway South:** Appl. #18-073 by Birchwood Country Club c/o John. F. Fallon, Esq. for property owned by Birchwood Country Club for a Special Permit and Site Plan approval for a warming hut for the paddle tennis program, for property located in a Residence AAA zone, PID #B07044000 be **Granted** subject to the following modifications:

1. Conformance to Existing Conditions Survey, prepared by Brautigam Land Surveyors, dated 6/18/13, revised 1/24/17.
2. Conformance to Site Plan, prepared by LANDTECH., dated 11/28/18, revised ~~12/17/18~~ 3/16/20 showing contours.
3. Conformance to Building Plan, prepared by Crozier, Gedney, Architects P.C., dated January 2018, revised 8/27/18. **Revised Elevation plans prepared by Phil Cerrone, dated 1/18/20 showing height measured from existing average grade.**
4. Conformance to the Conservation Department comments, dated 11/13/18.
5. Conformance to the Engineering Department comments, dated 12//8/18.
6. Prior to issuance of a Zoning Permit:
 - a) Proof of filing the resolution of approval on the land records.
 - b) Obtain the Zoning Certificate of Compliance (ZCC) for any outstanding zoning permits.
 - c) Review by the Planning and Zoning Landscape Subcommittee.

- d) Engineering Department signoff.
- e) Conservation Department signoff.
- 7. All work approved pursuant to this Special Permit/Site Plan shall be completed within 5 years of date of approval, by December 20, 2023.
- 8. The replacement and/or repair of any stone wall greater than 4 feet in height shall require the issuance of building permit.
- 9. Prior to issuance of a Zoning Certificate of Compliance, the applicant shall submit an as-built survey showing all parking spaces located on site.
- 10. All new utilities shall be placed underground.
- 11. All plantings shown on an approved Site Plan shall be maintained in a healthy growing condition and all fences and walls shall be maintained in good physical condition throughout the duration of the use. Existing native plants, and newly installed native salt tolerant plants located in the vegetative buffer in particular, must be maintained. Plants, fences or walls not so maintained shall be replaced with new materials no later than the beginning of the next immediately following growing season.
- 12. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

ENFORCEMENT Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up to the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons

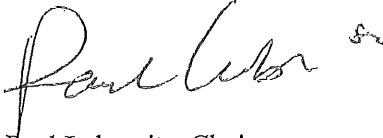
- 1. The proposed use has been found to be in conformance with the 2017 Plan of Conservation and Development; and the Site Plan and Special Permit standards listed in §44-5 and §44-6.

VOTE:

AYES -5- {Lebowitz, Stephens, Walsh, Dobin, Olefson}
NAYS -0-
ABSTENTIONS -0-

Very truly yours,

25 Kings Highway South, Site Plan/Special Permit Appl. #18-073

A handwritten signature in black ink, appearing to read "Paul Lebowitz", with a small flourish at the end.

Paul Lebowitz, Chairman
Planning & Zoning Commission

cc: Town Engineer
Conservation Director